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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,436	03/01/2004	Thierry Gandelheid	032880-101	9777

45473 7590 06/09/2005

HUTCHISON & MASON PLLC  
PO BOX 31686  
RALEIGH, NC 27612

EXAMINER
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THERKORN, ERNEST G

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ML

**Office Action Summary**

Application No.

10/790,436

Applicant(s)

GANDELHEID ET AL.

Examiner

Ernest G. Therkorn

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "predicting a retention time of the compound of interest from the preparative scale HPLC column" renders the claim indefinite.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) in view of Abedi (U.S. Patent No. 6,413,431). At best, the claims differ from Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) in reciting determining the R<sub>f</sub> value using thin layer chromatography. Abedi (U.S. Patent No. 6,413,431) (column 3, lines 6-17 and column 4, lines 55-67) discloses that R<sub>f</sub> on a thin layer chromatograph is interchangeable with the retention times on an analytical column for correlating to a preparative HPLC protocol. It would have been obvious to determine the R<sub>f</sub> value using thin layer chromatography in either Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) because Abedi (U.S. Patent No. 6,413,431) (column 3, lines 6-17 and column 4, lines 55-67) discloses that R<sub>f</sub> on a thin layer chromatograph is interchangeable with the retention times on an analytical column for correlating to a preparative HPLC protocol.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) in view of Abedi (U.S. Patent No. 6,413,431) as applied to claims 1-5 above, and further in view of Afeyan (U.S. Patent No. 6,344,172). At best, the claim differs from either Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) in view of Abedi (U.S. Patent No. 6,413,431) in reciting use of an artificial neural network. Afeyan (U.S. Patent No. 6,344,172) (column 14, lines 13-45) discloses use of an artificial intelligence program recognizes patterns and allows for the elimination of manual or piecemeal preparatory steps. It would have been obvious to use artificial intelligence in either Collins (WO 01/90739) or Collins (U.S. Patent Pub. 2002/0023878) in view of Abedi (U.S. Patent No. 6,413,431) because Afeyan (U.S. Patent No. 6,344,172) (column 14, lines 13-45) discloses use of an artificial intelligence program recognizes patterns and allows for the elimination of manual or piecemeal preparatory steps.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is (703) 872-9306.

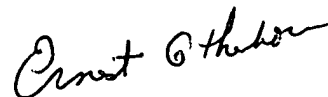
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Ernest G. Therkorn". The signature is written in a cursive, flowing style.

**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT

June 6, 2005